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Lay representative for Temple of Lono

BOARD OF LAND AND NATURAL RESOURCES

FOR THE STATE OF HAWAII

IN THE MATTER OF) Case No. BLNR-CC-16-002
)
A Contested Case Hearing Re Conservation) **TEMPLE OF LONO PROPOSED**
District Use Permit (CDUP) (HA-3568 for) **ISSUES; EXHIBIT "A"; COS**
The Thirty Meter Telescope at the Mauna)
Kea Science Reserve, Kaohe Mauka,)
Hamakua District, Island of Hawai'i,)
TMK (3) 4-4-015:009)
_____)

TEMPLE OF LONO PROPOSED ISSUES

Comes now the Temple of Lono and respectfully submits the proposed issues attached hereto as Exhibit "A."

On July 18, 2016, Perpetuating Unique Educational Opportunities, Inc. ("PUEO") filed its Motion to Set Issues. DOC-99 (Motion). The following documents were filed in response to the PUEO motion:

DOC-119 (Temple of Lono opposition to the Motion) dated July 20, 2016;

DOC 140 (University of Hawai'i at Hilo substantive joinder to the Motion) dated August 1, 2016;

DOC-152 (TMT International Observatory, LLC substantive joinder) dated August 1, 2016;

DOC-164 (Petitioners Mauna Kea Ainana Hou, *et al.* position statement on the Motion) dated August 1, 2016;

DOC-186 (Harry Fergerstrom opposition to the Motion) dated August 9, 2016;

DOC-195 (Mehana Kihoi joined to Harry Fergerstrom opposition; and
DOC-242 (University of Hawai'i at Hilo supplemental comments on the Motion) dated August 22, 2016.

The Motion came before the Hearing Officer on August 29, 2016. After hearing from the movant and parties responding to the Motion, the Hearing Officer requested PUEO draft a document capturing the issues identified by the parties.

On September 9, 2016, PUEO filed its Perpetuating Unique Educational Opportunities, Inc.'s Proposed Minute Order Granting Perpetuating Unique Educational Opportunities, Inc.'s Motion to Set Issues [DOC-99].

Rather than a compilation of what all parties suggested as issues, PUEO proposes a minute order that simply grants PUEO's initial motion which excluded certain issues and included other issues. PUEO failed to mention of, let alone provide a compilation of, the additional issues raised by other parties.¹

Given PUEO's failure to follow the instructions of the Hearing Officer, the Temple of Lono herein identifies issues that the Temple argues should be heard in this proceeding, in addition to issues proposed by PUEO's initial motion.

Dated: September 17, 2016, Kurtistown, Hawai'i, Kingdom of Hawai'i

_____/s/_____
Lanny Alan Sinkin
Lay Representative for Temple of Lono

¹ PUEO even excluded an issue that PUEO earlier identified as possibly arising. *Compare* DOC-99 at 4-5 ["PUEO acknowledges that other issues ... and the TMT sublease, may be raised in this proceeding." (emphasis added)] with DOC-256 (no mention of sublease issue).

EXHIBIT A

TEMPLE OF LONO PROPOSED ISSUES

The Temple organized the proposed issues into categories:

1. Character of Applicant and Applicant's partners or cooperating agencies*
2. Competence of Applicant and Applicant's partners or cooperating agencies*
3. The Traditional Hawaiian Faith: History and Current Practice
4. Kingdom of Hawai'i
5. Military Applications of the Thirty Meter Telescope
6. Alternative Sites for the Thirty Meter Telescope

* The terms "Applicant," "Applicant partners," and "cooperating agencies" includes TMT International Observatory, LLC; the Board of Land and Natural Resources; and the Office of Mauna Kea Management. As used herein, the term "Applicant" includes all such entities.

1. CHARACTER

The issues in the Character category include:

- Has the Applicant demonstrated a hostility toward the Traditional Hawaiian Faith that disqualifies the Applicant from receiving the permit requested?
- Has the Applicant demonstrated a likelihood that Applicant's use of the permit will not be in conformance with the mandates of the State Constitution and other applicable laws?
- Has the Applicant taken actions to suppress the practice of the Traditional Hawaiian Faith on Mauna Kea?
- Has the Applicant endangered public health and safety in pursuit of suppressing the political opposition to the Thirty Meter Telescope?
- Has the University conspired with other governmental agencies and private entities to suppress the First Amendment rights of those opposing the Thirty Meter Telescope?
- Has the Applicant contributed to a long history of suppression directed towards the Traditional Hawaiian Faith?

2. COMPETENCE

The issues in the Competence category include:

- Has the Applicant been a good steward of Mauna Kea?

- Has the Applicant protected sacred sites on Mauna Kea?
- Has the Applicant taken action when sacred sites were desecrated?
- Have there been serious issues of mismanagement on Mauna Kea?

3. THE TRADITIONAL HAWAIIAN FAITH: HISTORY AND CURRENT PRACTICE

The issues in the Traditional Hawaiian Faith category include:

- The teachings of the Temple of Lono
- The relationship between the Temple of Lono and Mauna Kea
- Actions taken by the Temple of Lono regarding telescopes on Mauna Kea
- The relationship between the Temple of Lono and the Kingdom
- The suppression of the Traditional Hawaiian Faith
- The reemergence of the Traditional Hawaiian Faith
- Contemporary examples of suppression of the Traditional Hawaiian Faith
- Impact of proposed land use on traditional and customary Native Hawaiian practices, including religious practices

4. THE KINGDOM OF HAWAI'I

The issues in the Kingdom of Hawai'i category include:

- The continued legal existence of the Kingdom
- The existence and functioning of a restored Kingdom Government
- The relationship between the Kingdom and the land where the telescope is proposed, including the possibility of competing land claims

5. THE MILITARY APPLICATIONS OF THE THIRTY METER TELESCOPE

The issues in The Military Applications of the Thirty Meter Telescope include:

- The components of the Thirty Meter Telescope produced by the military for military purposes
- The application of the Thirty Meter Telescope to military uses
- The failure of the proponents of the Thirty Meter Telescope to address the military applications and their implications

6. ALTERNATIVE SITES FOR THE THIRTY METER TELESCOPE

The issue in Alternative Sites for the Thirty Meter Telescope include:

- Other locations where the Thirty Meter Telescope could be built
- Pros and cons of those alternate locations